IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION No.7341 of 2000

Between:

S.A.Gaffar S/o.S.A.Rahaman
Retired Head Clerk, I. Additional Disttict Court Cuddapah District,
R/o. Agadi Street , Cuddapah , Cuddapah District.

....PETITIONER

AND

1. The Government of Andhra Pradesh, rep by its Principal Secretary,
   Finance & Planning (Finance Wing) Department, Secretariat
Building , Hyderabad -22.
2. The Registrar (Administration),
   High Court of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction more particularly none in the nature of writ of Mandamus to declare that the petitioner is entitled for payment of Gratuity , Commutation and difference of encashment of leave on the basis of the pay fixed in Revised Pay Scales,1999 in terms of G.O.(P) No.114 Finance & Planning (FW.P.C.I) Dept, Dt: 11-8-1999 by holding that the orders in para 5 of G.O.(P) No.156 Finance and planning Dept, Dt: 16-9-99 is arbitrary, unjustified, discriminatory and violative of Art.14 and 21 of the Constitution of India and consequently to delete the para 5 of G.O(p) Finance & Planning (F.W.Pension-I) Dept Dt: 16-9-99 with a direction to the respondent to pay D.C.R.G.Commutation and difference of encashment of leave on the basis of the pay fixed under Revised Pay Scales , 1999 with all consequential and attendant benefits and pass such other order or orders.

Counsel for the Petitioner: Mr.S.A.K.MYNUDDIN

Counsel for Respondent No.1: G.P. FOR FINANCE & PLANNIN G

Counsel for Respondent No.2: MR.C.V.NAGARJUNA REDDY

The Court made the following :

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ORAL ORDER: (per the Hon'ble the Chief Justice)

Learned counsel for the parties agreed that this writ petition is squarely covered by the decision of a Division Bench of this Court in W.P.No.20755 of 2002 and batch – State Government Pensioners Association, A.P. v. State of A.P. - dated 10th September 2003, holding that pensionary benefits have to be calculated on the basis of deemed pay and the incumbents would be entitled to calculation of leave encashment benefit on the said basis.

In view of the statement that the decision has not been challenged further and has become final, we allow the writ petition in terms of the same directions directing that amount will be calculated and paid to the petitioner herein within a period of three months from the date of receipt of a copy of this order.

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(DEVINDER GUPTA, C.J.)

24th November 2004.

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(M. NARAYANA REDDY, J.)

ARS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this WEDNESDAY the TWENTY FOURTH day of NOVEMBER Two Thousand and Four.

To

1. The Principal Secretary, Government of Andhra Pradesh,
   Finance & Planning (Finance Wing) Department, Secretariat
Building , Hyderabad -22.
2. The Registrar (Administration),
   High Court of Andhra Pradesh, Hyderabad.

3. The Legal Cell, High Court of A.P. Hyderabad.

4. The Section Officer, C Section, High Court of A.P., Hyderabad.

5. Two CCs to Govt. Pleader for Finance & Planning, High Court

Bldgs., Hyderabad (OUT).

6. Two CD copies.